

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

JOHN DOE

PLAINTIFF

V.

CIVIL ACTION NO. 3:18-cv-63-DPJ-FKB

THE UNIVERSITY OF MISSISSIPPI, ET AL.

DEFENDANTS

MOTION TO STAY PROCEEDINGS OR, ALTERNATIVELY, DISMISS

Defendants State of Mississippi; The University of Mississippi; State Institutions of Higher Learning; The Board of Trustees of State Institutions of Higher Learning; C.D. Smith, Jr.; Shane Hooper; Tom Duff; Dr. Ford Dye; Ann H. Lamar; Dr. Alfred E. McNair, Jr.; Chip Morgan; Hal Parker; Alan W. Perry; Christy Pickering; Dr. Doug Rouse; Dr. J. Walt Starr; Glenn F. Boyce; Jeffrey S. Vitter respectfully move this Court to stay the proceedings or, alternatively, dismiss Plaintiff's Complaint. In support, Defendants states as follows:

1. This case arises out of Plaintiff's expulsion from the University of Mississippi for an alleged sexual assault that occurred on March 30, 2017. Doe was criminally indicted for sexual battery as a result of the underlying sexual encounter, and faces criminal prosecution in the Circuit Court of Lafayette County, Mississippi.

2. In light of the criminal proceedings, Plaintiff has invoked his Fifth Amendment right and refused to give testimony in this civil action.

3. The United States Constitution entitles John Doe to refuse to give testimony that could be used against him in his criminal trial, but he is not entitled to use that privilege for strategic advantage in this civil proceeding.

4. Doe's assertion of the Fifth Amendment will impede Defendants' ability to defend this action, and the Court should stay the case until Doe is willing to provide the proof Defendants need to defend his claims or he is no longer in criminal jeopardy.

5. Alternatively, the Court should dismiss the action to preserve Doe's Fifth Amendment privilege yet ensure it is not employed for unfair advantage.

In support of their Motion, Defendants rely on the pleadings and papers filed of record in this matter, including their Memorandum Brief filed contemporaneously herewith.

FOR THESE REASONS, Defendants request that the Court either stay this action until Plaintiff is willing to testify or no longer in criminal jeopardy or, alternatively, dismiss Plaintiff's Complaint in its entirety.

THIS, the 24th day of August, 2018.

Respectfully submitted,

**STATE OF MISSISSIPPI; THE UNIVERSITY OF
MISSISSIPPI; STATE INSTITUTIONS OF HIGHER
LEARNING; THE BOARD OF TRUSTEES OF STATE
INSTITUTIONS OF HIGHER LEARNING; C.D.
SMITH, JR.; SHANE HOOPER; TOM DUFF; DR.
FORD DYE; ANN H. LAMAR; DR. ALFRED E.
MCNAIR, JR.; CHIP MORGAN; HAL PARKER;
ALAN W. PERRY; CHRISTY PICKERING; DR. DOUG
ROUSE; DR. J. WALT STARR; GLENN F. BOYCE;
JEFFREY S. VITTER**

/s/ J. Andrew Mauldin

J. CAL MAYO, JR. (MB NO. 8492)
PAUL B. WATKINS, JR. (MB NO. 102348)
J. ANDREW MAULDIN (MB NO. 104227)
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CERTIFICATE OF SERVICE

I, J. Andrew Mauldin, one of the attorneys for Defendants, do certify that I have electronically filed this document in the ECF system with the Clerk of the Court which sent notification of the filing to all attorneys of record.

THIS, the 24th day of August, 2018.

/s/ J. Andrew Mauldin
J. ANDREW MAULDIN